

ORIGINAL

96-198



Federal Communications Commission  
Washington, D.C. 20554

SEP 15 1998

IN REPLY REFER TO:  
9806725

EX PARTE OR LATE FILED

The Honorable Carol Moseley-Braun  
United States Senate  
324 Hart Senate Office Building  
Washington, D.C. 20510-1303

RECEIVED

SEP 17 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Senator Moseley-Braun:

This is in response to your letter on behalf of your constituent, Nancy A. Dietrich, regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

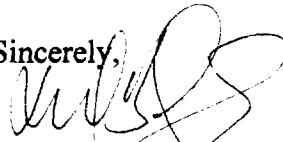
It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on

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August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. The comments of your constituent will be included as an informal comment in the record of WT Docket 96-198, and carefully considered, along with the many other comments, before final action is taken on this critically important matter. I appreciate your constituent's input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Pythyon', written over the word 'Sincerely,'.

Daniel B. Pythyon  
Chief, Wireless Telecommunications Bureau

CAROL MOSELEY-BRAUN  
ILLINOIS

United States Senate  
WASHINGTON, DC 20510-1303

August 10, 1998

COMMITTEES:  
BANKING, HOUSING, AND  
URBAN AFFAIRS  
FINANCE  
SPECIAL AGING

Karen Kornbluh  
Director  
Office of Legislative Affairs  
Federal Communications Commission  
1919 M. Street, N.W. Room 808  
Washington, D.C. 20554

Dear Friend:

Enclosed are inquiries I received from my constituents.

Because of my desire to be responsive to all communications, your consideration of the matter is requested.

Please return your findings in duplicate form along with this correspondence to the attention of constituents on the envelope only.

Thank you very much for your consideration.

Yours truly,

  
Carol Moseley-Braun  
United States Senator

CMB:rs

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NANCY A. DIETRICH  
2621 BROOKFIELD COURT  
COLUMBIA, IL 62236-2620

June 25, 1998

The Honorable Carol Moseley-Braun  
U. S. Senate  
Washington, DC 20510

Dear Mrs. Moseley-Braun:

Re FCC Notice of Proposed Rulemaking On  
the Access Provisions of the Telecommu-  
nications Act of 1996

I have severe hearing loss and wear two hearing aids with telecoil. I would like to express my concerns regarding FCC's notice. FCC is undermining Congressional intent to make telecommunications equipment and services accessible to people with disabilities as called for in Section 255 of the Telecommunications Act of 1996.

It appears that FCC may not apply the Access Board guidelines (published on February 3, 1998) to service providers. I'm concerned about this and feel that the guidelines should apply to both manufacturers and service providers. I feel that definitive wording to that effect is needed to ensure that service providers and manufacturers clearly understand their access responsibilities in their design of new equipment.

I'm still searching for a wireless phone that is compatible with my hearing aids. Six times I had an emergency and had a need for such phone. I feel that all phones and service should be accessible, thus becoming beneficial to everyone, disabled or not.

The Act provides that a company's obligation to make products accessible, if they are "readily achievable". However, FCC is deviating from the readily achievable standard to the concept of "cost recovery". I don't feel that a manufacturer or provider should be allowed to consider whether or not it will recover costs of increased accessibility in its assessment of the readily achievable standards. If the cost recovery concept is adopted, the concept of accessibility in our society would be undermined.

For example, because telecoils were not mandated for cellular phones, most analog cell phones still don't have telecoils for hearing aid users. See above indented paragraph regarding my experiences with emergencies. I want to be able to use a cellular phone just like everyone else.

I'm concerned about FCC's omission of "enhanced services" from the coverage under Section 255, especially voice mail and automated voice response systems. I've been frustrated in dealing with complicated, fast moving automated response systems when I use voice telephones. Sometimes when I use TTY relay service to call a company, the relay operator doesn't have sufficient time to type the choice and have me respond. The operator would try one or two more times to complete critical calls.

Even calling Boston Pops long distance to follow up on the ticket order was a disaster. I ended up, having to write, thus losing valuable time!

Leaving out "enhanced services" will severely limit educational and employment opportunities and interferes with full participation in today's society.

I recall my experience with voice mail at work and was not able to put my phone on voice mail. I had a terrible time hearing voice mail when I made calls to my associates or other employees at the office. That kept me from completely performing my duties and I had to rely on others to help me with the calls.

The Honorable Carol Moseley-Braun  
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I urge you to contact the Chairman of the FCC, William E. Kennard, about my concerns.

Thank you for your time.

Sincerely yours,

*Nancy Dietrich*